



1           The parties to the above-entitled action jointly submit this JOINT CASE  
 2 MANAGEMENT STATEMENT & PROPOSED ORDER pursuant to the *Standing Order*  
 3 *for All Judges of the Northern District of California* and Civil Local Rule 16-9.

4           1. Jurisdiction & Service

5           The Court has subject matter jurisdiction over this matter pursuant to 28 U.S.C. §  
 6 1332 (diversity), 28 U.S.C. §§ 1331 (federal question), 1333 (admiralty/maritime), and 46  
 7 U.S.C. § 30101 (admiralty/maritime), as this lawsuit arises from an personal injury claim  
 8 allegedly occurring on land and caused by a vessel in navigable waters, involves diverse  
 9 defendants, and involves a matter in controversy in excess of \$75,000.

10           Defendant MOLAM Legacy, Inc. (“Molam”) (erroneously served as “MOL  
 11 (America), Inc.”) has been served and has answered. Defendant Ocean Network Express  
 12 (North America) Inc. has been voluntarily dismissed without prejudice under F.R.C.P.  
 13 41(a)(1)(A).

14           2. Facts

15           This case arises from a September 20, 2016 accident. Plaintiff asserts that on that  
 16 day, he was assigned to work as a “linesman” in the course of his regular duties as a  
 17 longshoreman. Linesmen are tasked with tying ships up to a dock upon their arrival, and  
 18 untying ships from a dock prior to their departure. While Plaintiff tying up the MOL  
 19 Prosperity to a dock at the Port of Oakland, the ship pulled back on the line being used by  
 20 Plaintiff, injuring him. Plaintiff’s injuries include injuries to his back, right shoulder, and  
 21 groin. His damages include past and future medical expenses, past and future wage losses,  
 22 lost earning capacity, and general damages.

23           Defendant Molam contends it was not the owner or otherwise legally in control or  
 24 possession of the MOL Prosperity at the time of Plaintiff’s injury. Molam also disputes the  
 25 Plaintiff’s factual assertions regarding the events and circumstances surrounding and  
 26 encompassing the alleged incident.

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1      3. Legal Issues

2               Plaintiff expects no disputed legal issues, except perhaps as to Defendant's duty to  
3 Plaintiff, as the complaint is brought on a negligence theory.

4               Defendant anticipates legal issues regarding (1) its status as a proper vessel owner  
5 defendant, and (2) the legal duties owed to the Plaintiff.

6      4. Motions

7               There are no pending motions. Plaintiff does not anticipate any motions at this time.  
8 Defendant expects to file a motion for summary judgment based on its non-ownership of the  
9 vessel and lack of any operational control over it.

10     5. Amendment of Pleadings

11              Plaintiff may need to amend the complaint should discovery indicate that an entity  
12 that is not a party to this litigation owned or controlled the *MOL Prosperity* at the time  
13 Plaintiff was injured. Plaintiff is unable to propose a specific date for the deadline for the  
14 amendment of pleadings at this time, but estimates that at least one round of discovery will  
15 be necessary to determine whether the proper parties have been named. As such, Plaintiff  
16 proposes a deadline in approximately June of 2020. Defendant does not anticipate  
17 amending any pleadings at this time

18     6. Evidence Preservation

19              The parties have reviewed the Court's ESI Guidelines and taken reasonable and  
20 appropriate steps to preserve evidence relevant to the issues reasonably evident in this  
21 action. The parties will meet and confer regarding any electronic discovery issues that may  
22 arise.

23     7. Disclosures

24              The parties have exchanged their respective Initial Disclosures.

25     8. Discovery

26              Other than the exchange of initial disclosures, no discovery has been completed to  
27 date. The parties do not expect to request any changes in the timing, form or requirement for  
28 disclosures under Rule 26(a). The parties anticipate exchanging written discovery including

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1 interrogatories, requests for admission, document requests, depositions of percipient and  
 2 other relevant witnesses relating to the accident and Plaintiff's damages, expert discovery  
 3 and depositions, and subpoenas to third parties as necessary. Defendant may also request a  
 4 defense medical examination.

5 The parties are amenable to considering a stipulated discovery plan and are currently  
 6 unaware of any potential issues regarding claims of privilege or protection of trial  
 7 preparation materials, changes to the limitations on discovery imposed by the Federal Rules,  
 8 or need for additional orders under Rule 26(c) or Rule 16(b) or (c).

9 **9. Class Actions**

10 Not applicable.

11 **10. Related Cases**

12 Not applicable.

13 **11. Relief**

14 Plaintiff seeks an award of past and future loss of earnings and earning capacity,  
 15 past and future medical expenses, and mental and physical pain and suffering, all in  
 16 amounts that have yet to be calculated, and prejudgment interest on same.

17 **12. Settlement and ADR**

18 The parties are amenable to mediation.

19 **13. Consent to Magistrate Judge For All Purposes**

20 The parties have consented to a magistrate judge for all purposes.

21 **14. Other References**

22 Not applicable.

23 **15. Narrowing of Issues**

24 The parties are not yet aware of factual or legal issues which may be narrowed.

25 **16. Expedited Trial Procedure**

26 The parties are not yet able to comment on whether this matter is suitable for an  
 27 expedited trial procedure.

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1      **17. Scheduling**

2               Plaintiff proposes a deadline to amend the pleadings for roughly June of 2020, as  
 3 well as the following discovery deadlines:

4               Non-Expert Discovery Cutoff 90 days before trial  
 5               Expert Discovery Cutoff 45 days before trial  
 6               Hearing on Dispositive Motions 30 days before trial  
 7               Pretrial Conference 30 days before trial

8               Defendant agrees generally with the Plaintiff's proposed deadlines and propose the  
 9 Court set a trial date in 12 months.

10     **18. Trial**

11               Plaintiff has demanded a jury trial and estimates a trial will take 4-7 days.  
 12 Preliminarily, Defendant believes a trial will take 5 – 10 days.

13     **19. Disclosure of Non-party Interested Entities or Persons**

14               The parties are not currently aware of any non-party interested entities or persons,  
 15 but note there is a lien asserted by Signal Mutual Indemnity Association in connection with  
 16 Plaintiff's parallel workers' compensation claim under the Longshore and Harbor Workers'  
 17 Compensation Act.

18     **20. Professional Conduct**

19               The parties' attorneys have reviewed the Guidelines for Professional Conduct for the  
 20 Northern District of California.

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1      21. Other

2            None at this time.

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7      Dated: January 29, 2020

WELTIN, STREB, & WELTIN, LLP  
Attorneys for Plaintiff  
GREGORY CARASSCO

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14      Dated: January 30, 2020

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Attorneys for Defendant  
MOLAM Legacy, Inc.

15      By: /s/ Max L. Kelley

16            Terence S. Cox  
17            Max L. Kelley

1                   CASE MANAGEMENT ORDER

2       The above JOINT CASE MANAGEMENT STATEMENT & PROPOSED ORDER is  
3       approved as the Case Management Order for this case and all parties shall comply with its  
4       provisions. [In addition, the Court makes the further orders stated below:]

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7       IT IS SO ORDERED.

8       Dated:

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10                  UNITED STATES DISTRICT/MAGISTRATE  
11                  JUDGE

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